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**CARMEL CITY CODE****CHAPTER 10: ZONING & SUBDIVISIONS****ARTICLE 2: SUBDIVISION REGULATIONS****CARMEL SUBDIVISION CONTROL ORDINANCE****CHAPTER 3: GENERAL PROVISIONS**

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**3.00 General Provisions.****3.01 Violations and Penalties.**

- 3.01.01 A failure to comply with any of the requirements of this Ordinance, including violations of conditions and safeguards established in connection with the granting of variances, special uses, rezonings and development plan approvals shall constitute a violation of this Ordinance.
- 3.01.02 The Commission, the Board, the Building Commissioner or any designated enforcement official or any person or persons, firm or corporation jointly or severally aggrieved may institute a suit for injunction in any court of competent jurisdiction to restrain an individual or a governmental unit from violating the provisions of this Ordinance.
- 3.01.03 The Commission, the Board or the Building Commissioner may also institute a suit for mandatory injunction directing any individual, firm, corporation or governmental unit to remove a structure erected in violation of the provisions of this Ordinance.
- 3.01.04 Any building erected, raised or converted, or land or premises used in violation of any provisions of this Ordinance or of the requirements thereof, is hereby declared to be a common nuisance and as such may be abated in such manner as nuisances are now or may hereafter be abated under existing law.
- 3.01.05 Any person, persons or corporations, whether as principal, agent, employee or otherwise, who violates any part of this Ordinance shall be guilty of a misdemeanor upon conviction, shall be fined not less than twenty-five dollars (\$25.00) and not more than five hundred dollars (\$500.00) for each offense. For purposes of this Ordinance, each day of violation of the terms of this Ordinance shall constitute a separate offense.
- 3.01.06 The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, realtor, agent or other person who commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

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### **3.02 Severability.**

Should any section or any provision of this Ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so held to be unconstitutional or invalid.

### **3.03 Conflicting Ordinances.**

Whenever any provision of this Ordinance imposes a greater requirement or a higher standard than is required in any State or Federal code or regulation or other City ordinance or regulation, specifically the Uniform Building Code, One and Two-Family Building Code, Uniform Plumbing Code and the National Electrical Code, the provision of this Ordinance shall govern. Whenever any provision of any State or Federal statute or other City ordinance or regulation imposes a greater requirement or a higher standard than is required by this Ordinance, the provision of such State or Federal statute or other City ordinance shall govern.

### **3.04 Non-Interference.**

It is not the intent of this Ordinance to interfere with, abrogate or annul any easements, covenants, or other agreements between parties or to interfere with, abrogate or annul any ordinances, rules, regulations, or permits previously adopted or issued, and not in conflict with any of the provisions of this Ordinance, or which shall be adopted or issued; however, where this Ordinance imposes a greater restriction upon the use of buildings or land, or upon the height of buildings, or requires larger open spaces or greater lot area per dwelling unit than are imposed or required by other easements, covenants or agreements between parties or by such ordinances, rules, regulations, or permits, the provisions of this Ordinance shall govern.

### **3.05 Effective Date.**

The Subdivision Control Ordinance of the City of Carmel and Clay Township, Hamilton County, Indiana, as herein presented, shall be in full force and effect from and after its passage by the City Council of the City of Carmel, Indiana on December 18, 1979.

On this date, Ordinance No. Z-14 passed by the Town Board of Trustees of the Town of Carmel, Indiana, on December 21, 1957 and May 2, 1961, and the Subdivision Control Ordinance No. Z-160 passed by the City Council of the City of Carmel, Indiana, on December 18, 1979, respectively, and all amendments thereto, are hereby repealed and all other ordinances or parts thereof which are in conflict with the terms and conditions of this Ordinance are hereby repealed.

### **3.06 Amendments to the Subdivision Ordinance.**

- 3.06.01 Any person, group of persons or organization may seek to amend the Subdivision Control Ordinance. All amendments shall be subject to State Statutes and to the procedures cited herein.
- 3.06.02 Whenever an amendment to the Subdivision Control Ordinance is proposed, the applicant or his duly authorized representative shall meet with the Building Commissioner in order that the Building Commissioner may undertake a preliminary review of the amendment proposal. The Building Commissioner shall aid and advise the applicant in preparing his application and supporting materials as necessary. The applicant shall then submit two (2) copies of the written application form together with such necessary supporting documents and materials and the application fee, as indicated in Section 29.6 of the Zoning Ordinance, to the Building Commissioner.
- 3.06.03 Following the receipt of the written application, necessary supporting documents and materials and the application fee by the Building Commissioner, he shall then review the materials solely for the purpose of determining whether the application is complete, in technical compliance with all

applicable ordinances, laws and regulations and is to be forwarded to the Commission. If the materials submitted by the applicant are not complete or do not comply with the necessary legal requirements, the Building Commissioner shall inform the applicant, in writing, within ten (10) days of the receipt of the materials, of the deficiencies in said materials. Unless and until the Building Commissioner formally accepts the application as complete and in legal compliance, it shall not be considered as formally filed for the purpose of proceeding to succeeding steps necessary to amend the Subdivision Control Ordinance as hereinafter set forth. Within thirty (30) days of the formal acceptance of the application by the Building Commissioner, he shall formally file the application by placing it on the agenda of the Commission according to the Commission's Rules of Procedure.

- 3.06.04 Once the Building Commissioner has accepted and filed the application with the Commission, the Commission or its delegate shall assign a docket number and set a date and time for a public hearing. The Building Commissioner shall notify the applicant in writing of the public hearing. The applicant shall be responsible for the cost and publication of the published legal notification of the public hearing which shall appear at least ten (10) days prior to the date of the public hearing. As necessary, the applicant shall also notify all adjoining and abutting property owners. The Commission shall hold the public hearing according to its rules of procedure.
- 3.06.05 Following the public hearing on the Subdivision Ordinance amendment application, the Commission, within forty-five (45) days of the public hearing, shall review the proposed amendment outlined in the application and shall notify the applicant in writing of any further changes which are required or should have consideration before a recommendation on the amendment application can be given. Within forty-five (45) days of the receipt of materials incorporating the required changes into the application, the Commission shall make a recommendation to the City Council for approval or denial of the amendment application. The Commission shall formulate a report to the City Council outlining the pertinent factors involved in its decision, its recommendation and the vote in regard to said recommendation. The Commission report shall be certified to the Commission Secretary and shall be forwarded to the City Council by its next regularly scheduled meeting.
- 3.06.06 At its next meeting following the receipt of the Commission report, the City Council shall take action on the Commission report. If the Commission recommendation is positive, the City Council may approve the proposed amendment to the Subdivision Ordinance if an affirmative vote is obtained. If the Commission recommendation is negative, the City Council may approve the proposed amendment to the Subdivision Ordinance if an affirmative vote of at least seventy-five percent (75%) of the members of the City Council is obtained. Failure of the City Council to pass the proposed amendment to the Subdivision Ordinance by the necessary affirmative vote within ninety (90) days after the negative recommendation is made by the Commission shall constitute rejection of the proposed amendment. Should the City Council reject the proposed amendment to the Subdivision Ordinance, by vote or by default, said proposed amendment shall not be reconsidered by the Commission or the City Council until the expiration of one (1) year after the original recommendation of the Commission.

### **3.07 Variance**

The Plan Commission may authorize in specific cases such variance from the terms of the Subdivision Control Ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of said ordinance will result in unnecessary hardship, and so that the spirit of the Subdivision Control Ordinance shall be observed and substantial justice done. In deciding whether or not the applicant has presented sufficient proof to permit the granting of a variance, the Plan Commission shall determine that:

- 3.07.01 The grant of this variance will not be injurious to the public health, safety, morals and general welfare of the community.
- 3.07.02 The use or value of the area adjacent to the property included in the proposed plat will not be affected in a substantially adverse manner.
- 3.07.03 The need for the variance arises from some condition peculiar to the property and such condition is not due to the general conditions of the neighborhood.

3.07.04 The strict application of the terms of the ordinance will constitute an unusual and unnecessary hardship if applied to the property for which the variance is sought.

3.07.05 The grant of the variance does not interfere substantially with the comprehensive plan.

### **3.08 Copy on File**

A certified copy of the Subdivision Control Ordinance of the City of Carmel and Clay Township, Hamilton County, Indiana, as may be amended from time to time, shall be filed in the Office of the Clerk-Treasurer and shall be available for public viewing during normal office hours.

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**CHAPTER 3: GENERAL PROVISIONS  
AMENDMENT LOG**

<b>Ordinance No.</b>	<b>Docket No.</b>	<b>Council Approval</b>	<b>Effective Date</b>	<b>Sections Affected</b>